

No. 14-1682 BN

1 CSR 15-3.436(4)(A). We make our findings of fact from Maxwell's complaint and the Board's exhibits. The following facts are undisputed.

### Findings of Fact

1. The Board sent a proposed settlement agreement to Maxwell concerning information that the Board received and that it believes is grounds for disciplining Maxwell's nursing license.
2. Maxwell signed the settlement agreement, but it has not been signed by the Board.
3. Maxwell filed a complaint seeking review of the settlement agreement by this Commission.

### Conclusions of Law

Section 621.045.4(3), RSMo Supp. 2013, gives us authority to review a settlement agreement between a licensee and a licensing agency only after the parties have signed it:

[T]he licensee may, **either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter**, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee[.]

(Emphasis added). In this case, Maxwell has signed the settlement agreement, but no representative of the Board has done so.

“[A]dministrative agencies—legislative creations—possess only those powers expressly conferred or necessarily implied by statute.” *United Pharmacal Co. of Mo., Inc. v. Mo. Bd. of Pharmacy*, 208 S.W.3d 907, 913 (Mo. banc 2006) (internal quotation omitted). Thus, our authority to act comes from the statutes alone. If we lack authority to hear a complaint, we can take no action other than to exercise our inherent power to dismiss it. *State Bd. of Registration for Healing Arts v. Draper*, 280 S.W.3d 134, 136 (Mo. App., E.D., 2009).

The statutory conditions for our authority to review the settlement agreement under § 621.045.4(3) have not been met because the Board has not signed it. Therefore, we lack

authority to review the proposed settlement agreement, and we must dismiss Maxwell's complaint.

**Summary**

We grant the Board's motion and dismiss the complaint.

SO ORDERED on November 18, 2014.

/s/ Karen A. Winn  
KAREN A. WINN  
Commissioner